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Sub-Commission on the Promotion
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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by International League for Human Rights,
a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[3 July 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

Transnational Corporations And Human Rights

1. The role of transnational corporations in the promotion, or abuse, of human rights, has been studied, but not there is not a great body of work on the subject. A corporation may work jointly with a government in a development project that gives rise to human rights violations. More often, the relationship is more indirect but the impact may still be great. We applaud the Sub-Commission for entrusting this subject to the Working Group on Transnational Corporations, which has now completed a draft Human Rights Principles and Responsibilities for Transnational Corporations and Other Business Enterprises (E/CN.4/Sub.2/2002/WG.2/WP.1/Add.2). Further study, citing specific existing examples, is warranted as the Sub-Commission considers the draft Human Rights Principles. We therefore wish to bring to the Sub-Commission's attention, through case studies involving Tibet and Burma, key issues regarding the role of transnational corporations.

2. The People's Republic of China's (PRC) policy and practice of population transfer into Tibet, in aid of its efforts to develop Tibet economically and exploit its resources, has been well-documented. In June 1999, President Jiang Zemin announced the PRC's "Western Development" campaign. In theory, this refers to a policy of developing western China by improving its economic infrastructure and providing more funds for education, the environment and technological development. In practice, it represents a systematic escalation of the long-standing policy of exploiting natural resources in Tibet and Xinjiang for export to China. In aid of its exploitation of Tibet, the PRC has received, and is seeking, the assistance of transnational corporations.

3. With the support of international corporations, mining operations in Tibet threaten to violate the Tibetans' right to self-determination; that is, their right to freely determine their economic, social and cultural development. For example, Australian-owned Sino Mining International (SMI) and other foreign investors plan to develop the Tanjiashan gold deposit in northern Tibet. Tibetans, however, are not participating in the decisions to exploit their natural resources. They will not enjoy the economic benefits these activities bring, as the resources are mined for export. Moreover, evidence indicates that such projects are pursued in an environmentally destructive manner, polluting Tibet's lands, forests and waters. Tibetan communities will bear the long-term social and environmental costs of destructive mining practices.

4. Significant reserves of oil, gas and hydropower are also located in Xinjiang and Qinghai (Tibetan: Amdo) Provinces. China's oil and gas reserves already have lured foreign investment. BP Amoco invested $578 million in the Chinese oil company, PetroChina, to help complete the "Sebei-Lanzhou" pipeline, which now runs 2500 km from Tibet's Tsaidam Basin to Lanzhou. Italian ENI/Agip also assisted in the construction of this pipeline across the Tibetan plateau. This internationally-financed energy project was developed without consulting Tibetans, without providing any compensation to the Tibetans for their natural resources, and without assessing its dramatic environmental and social impact.

5. China's plan to construct a 4000 km oil pipeline from Xinjiang to Shanghai, known as the "West-East Pipeline" project, similarly exploits the people's resources without their participation or benefit. This pipeline will eventually connect with the Sebei-Lanzhou pipeline. To finance this estimated $18 billion project, the PRC is entering into partnerships with Shell, Exxon/Mobil and other transnational corporations. Without their financial backing, the PRC simply could not guarantee the success of this unprecedented project. According to Business Week, because China views this project as the backbone of its national energy plan and a springboard for future foreign

investments, China initially has been willing to pay lip service to examining the project's social and environmental impacts. Nevertheless, the construction of this pipeline raises grave concerns about the importation of Chinese laborers to work on the pipeline, long-term environmental degradation, lack of compensation to Tibetans and Uighurs for their land, and long-term economic control over the region.

6. Virtually all of the natural resources and material wealth extracted from Tibet are channeled back to enrich China's eastern regions. The proposed Qinghai-Tibet railway will also serve to accelerate the extraction of minerals and other natural resources, as well as promote the "assimilation of Tibet into the motherland" by increasing Chinese migration. The purpose of such large-scale infrastructure projects, according to Tibet Information Network, is to facilitate the extraction of raw materials and goods *out of* Tibet and into the wealthier, more industrialized eastern Chinese regions. The People's Daily acknowledged that this project will bring an "unprecedented mammoth transfer of resources." Furthermore, the Chinese President confirmed last August in an interview with the New York Times that the construction of railway lines into central Tibet was a "political decision."

7. Another example of transnational corporations participating in violations of the Tibetans' rights to self-determination, to religious and cultural freedom, and to a protected environment, is the Yamdrok Tso hydroelectric project. This project was built over the strong objections of many Tibetans (some of whom were jailed for objecting) as it threatens the environment surrounding a lake considered sacred by the Tibetan people. Without substantial participation by transnational corporations, which supplied equipment and expertise, this project could not have been built. Moreover, the primary purpose of the project is to supply additional electric power to the Lhasa area in order to support the transfer of more Chinese settlers into this region.

8. Large development projects, supported by transnational corporations, have generated job opportunities. However, they largely benefit transplanted Chinese who obtain most of the skilled and managerial positions at the expense of Tibetans who often fill unskilled positions. There is further evidence that, on large infrastructure projects, Tibetans have been forced to "contribute" labor as part of a community contribution. Also, prisoners in "re-education through labor" and "reform through labor" camps, many of whom are prisoners of conscience, have been pressed into work on large scale lumbering operations in eastern Tibet. The use of such forced labor violates the International Covenant on Civil and Political Rights and the two International Labor Organization Forced Labor Conventions. Transnational corporations that become partners in projects employing such labor practices are aiding and abetting gross human rights violations.

9. The used of forced labor in violation of international law also has been documented in partnerships between the government of Burma and transnational corporations. One example involves a pending United States lawsuit brought against Unocal Corporation, based on its participation in an oil pipeline project in Burma. During this project, government officials and soldiers carried out forced labor and execution, and committed rape and torture. Recently, a California state court ruled that Unocal may be vicariously liable for the alleged human rights violations committed by its joint-venture partner. If upheld, this ruling could expose U.S. companies to lawsuits in American courts for human rights violations overseas.

10. The Sub-Commission, and the international community generally, should hold the PRC responsible for human rights violations within Tibet and the Burmese government responsible for human rights abuses in Burma. We remain concerned, however, about the ability of transnational corporations to operate with impunity in partnership with States, such as the PRC and Burma, that routinely violate, and permit the violation of, human rights within their territories. Corporations

that knowingly contribute to human rights violations should not be allowed to absolve themselves of responsibility by claiming that any human rights violations are the responsibility of the State in which they occur. As the Preamble to the Human Rights Principles states, transnational corporations have an independent obligation to respect generally recognized human rights principles and norms. The examples cited above violate one or more of the Principles, including paras. 2, 3, 5-9, 12 and 14.

11. States, moreover, have an obligation to ensure that firms operating under their protection are not contributing to the violation of human rights in other States' territories. The Charter of the United Nations requires all Members to "take joint and several action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." This obligation is repeated in the two International Covenants and in the Universal Declaration of Human Rights. We therefore submit that a State cannot, consistent with that obligation, permit a corporation organized and operating under the protection of its laws (and in the case of international projects, often with financial and/or political support of the Member State) to engage in practices in another State that violate fundamental human rights.

12. We call upon the Sub-Commission to consider and strengthen the draft Human Rights Principles offered by the Working Group, and to examine further the specific ways in which transnational corporations may participate directly and indirectly in human rights violations. Further, the Sub-Commission should affirm that States have a responsibility, as part of their obligation to promote fundamental human rights, to monitor firms and corporations operating from their territories and under their protection in order prevent human rights violations in any part of the world.